

S.B.Civil Writ Petition No.802/1996

Gram Panchayat, Menapadar and others.

vs.

The State of Rajasthan and others.

Date : 13.8.2007

HON'BLE MR. PRAKASH TATIA, J.

Mr.PR Mehta, for the petitioner.

Mr.MS Singhvi) for the respondents.
Mr.V Bishnoi)

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Learned counsel for the respondents pointed out that the matter has already been decided by the Division Bench of this Court in the case of Jamat Singh & Anr. vs. The State of Raj. and others reported in 1996(1) WLC (Raj.) 79 wherein the validity of section 124(2) of the Rajasthan Panchayati Raj Act, 1994 (for short 'the Act of 1994') was upheld and it was further held that the provisions of Section 43 of the Rajasthan Gramdan Act, 1971 (for short 'the Act of 1971') have rightly been deleted by insertion of Sub-section (2) of section 124 of the Act of 1994. The Division Bench of this Court held as under :-

“In the result, we allow this writ petition in part. The validity of S.124(2) of the Rajasthan Panchayati Raj Act, 1994 is upheld and we hold that the provisions of S.43 of the Rajasthan Gramdan Act, 1971 have rightly been deleted by insertion of Sub-S.(2) to S.124 of the Act. However, by deletion of S.43 of the Rajasthan Gramdan Act, 1971, the Gram Sabhas constituted under the provisions of the Rajasthan Gramdan Act, 1971 will not come to an end and they shall function independently in the Gramdan villages to carry out the scheme of the Rajasthan Gramdan Act, 1971 and they will not exercise those powers which are conferred on them by S.43 of the Act of 1971 because the provisions of S.43 of the Act of 1971 have been deleted by insertion of Sub-S.(2) to S.124 of the Act and those powers shall now be exercised by the concerned Gram Panchayats. These Gram Sabhas are directed to deliver only those relevant records and properties to the concerned Gram Panchayats which relate to the administration of the Gram Panchayats under the provisions of the Rajasthan Panchayati Raj Act, 1994 and properties which have been delivered to them by erstwhile Gram Panchayats which ceased to function as per S.43 of the Act of 1971 or which have been purchased or constructed by them out of the funds allotted to such Gram Sabhas from Panchayati Raj. Institutions, Departments or the Govt. of Rajasthan for the purposes of carrying out function and duties and development work of Gram Panchayats.”

In view of the fact that the controversy stands squarely covered by the Division Bench judgment of this

Court in the case of Jamat Singh (supra), this writ petition is also disposed of in the light of the said decision in the case of Jamat Singh (supra).

S.Phophaliya

(PRAKASH TATIA), J.